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November 16, 2015

Via ECF

The Honorable Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
Courtroom 15D
500 Pearl Street
New York, NY 10007

Re: *Leach et al v. Warner Brothers Inc. et al.*
Civil Docket No. 1:15-cv-07208-AT

Dear Judge Torres:

We represent plaintiffs in the above-captioned matter. On September 15, 2015, counsel for all parties were Ordered to appear for an initial pretrial conference (the "IPC") with the Court on November 23, 2015 and to submit a joint letter by November 20, 2015 ("Joint Letter") [Docket No. 3]. Additionally, pursuant to Your Honor's individual practices, plaintiffs' counsel are directed to submit a letter requesting an adjournment ("Adjournment Letter") if defense counsel have not appeared at least one week prior to the initial conference date. Accordingly, and for the reasons set forth below, we write to the Court to request: (1) leave of the Court to file an amended complaint (the "Second Amended Complaint") pursuant to Fed. R. Civ. P. Rule 15(c); and (2) an adjournment of the IPC and associated Joint Letter until after the service of the Second Amended Complaint can be effected upon (or waived by) each of the defendants named in this action.

The original complaint in this action was filed on September 11, 2015 (the "Complaint") [Docket No. 1] as a putative collective and class action asserting Federal and State wage and hour

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claims against certain defendants.¹ On October 15, 2015, plaintiffs filed a First Amended Complaint [Docket No. 28] altering and adding defendants to the action.²

Due to the number of defendants in the action, and the associated expense of serving each of them via process server, plaintiffs' counsel have proceeded by requesting waivers of service of process ("Waivers") from each of the defendants pursuant to Fed. R. Civ. P. Rule 4(d). On September 21, 2015, plaintiffs' counsel issued Waivers to all defendants named in the Complaint.

To date, out of seven (7) defendants, only two have appeared. One (1) defendant has received a Waiver but has not yet returned an executed Waiver to us. Another defendant repeatedly refused to accept delivery of Waivers and indicated that its name was incorrectly identified in the pleadings (the remaining defendants have not responded to the Waivers). The refusals prompted plaintiffs' counsel to conduct an investigation into the legal names of each of the defendants, who regularly conduct business under a variety of brand names, trademarks, and who have, as a result of industry consolidation over the years, in some instances been acquired and/or divested by other entities on multiple occasions.

Plaintiffs' counsel believe we have now identified the legal names for the appropriate defendants in this action, and therefore seek leave of the court pursuant to Rule 15(c) to file a Second Amended Complaint to reflect the changes in the names of the parties identified as defendants. No further amendments to the complaint have been made other than those pertaining to the correction of certain named defendants³. All of the parties identified in the proposed Second Amended Complaint are included because the claims against them arise out of the same "conduct, transaction, or occurrence set out – or attempted to be set out – in the original pleading." Fed. R. Civ. P. Rule 15(c)(1)(b). A clean copy of the proposed Second Amended Complaint and a redlined copy (showing how the Second Amended Complaint differs from the First Amended Complaint) are annexed hereto as Exhibits A and B, respectively.

Plaintiffs' counsel respectfully requests that we be granted leave to file the Second Amended Complaint and that the IPC and associated Joint Letter be adjourned temporarily in order to provide plaintiffs' counsel with sufficient time to locate and serve all defendants. Plaintiffs' counsel believe that the IPC will be much more productive if it occurs after all defendants are properly served or have otherwise appeared in the action.

Accordingly, we request leave to file the Second Amended Complaint and a sixty (60) day adjournment of the IPC and associated joint letter. Counsel for defendant Bonanza Productions,

¹ The defendants identified in the original Complaint are Warner Brothers Inc., Bonanza Productions Inc., Outerbanks Entertainment, and Cast & Crew Payroll Services.

² The defendants identified in the First Amended Complaint are Fox Entertainment Group, Warner Brothers Entertainment, Inc., Bonanza Productions, Inc., Outerbanks Entertainment, Inc., Primrose Hill Productions, Inc., DC Comics, Inc., and Cast & Crew Payroll Services.

³ The defendants identified in the proposed Second Amended Complaint are Fox Entertainment Group, Inc., Warner Bros. Entertainment Inc., Bonanza Productions, Inc., Outerbanks Entertainment, Primrose Hill Productions, DC Comics Inc., and Cast & Crew Payroll, LLC.

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Inc. have consented to our requested adjournment. Despite diligent efforts, counsel for defendant Cast & Crew Payroll Services, have yet to respond to our request for their consent to an adjournment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew L. Berman', with a long horizontal flourish extending to the right.

Matthew L. Berman

cc: All parties who have appeared, via ECF.

GRANTED. The case management conference scheduled for November 23, 2015 is ADJOURNED to **January 21, 2016**, at **4:45 p.m.** The parties shall file their joint letter and proposed case management plan by **January 15, 2016**. Plaintiffs shall file their Second Amended Complaint by **November 18, 2015**.

SO ORDERED.

Dated: November 16, 2015
New York, New York

A handwritten signature in black ink, appearing to read 'Analisa Torres', with a long horizontal flourish extending to the right.

ANALISA TORRES
United States District Judge